



July 14, 2011

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The Honorable Ben Bernanke
Chairman
The Federal Reserve System
20th St. at Constitution Ave., N.W.
Washington, D.C. 20551

Mr. Secretary and Chairman Bernanke:

The Small Business Lending Fund ("SBLF") was enacted into law as part of the Small Business Jobs Act of 2010 and is a \$30 billion fund that encourages lending to small businesses by providing capital to qualified community banks. The stated goal of the SBLF was for "main street banks" and small businesses to work together to help create jobs and promote economic growth in local communities across the nation. Unfortunately, the original intent and goals of the SBLF have taken a backseat to bureaucratic red tape. The hurdles could be easily cleared if the Treasury Department and the federal regulators would focus on the original goals and intent of the SBLF fund.

The SBLF applications were due to the banking regulators and Treasury by March 31, 2011. The eligibility guidelines issued by the Treasury (same guidelines on the SBLF website today) were brief and only excluded banks on the FDIC problem bank list which generally includes banks with 4 or 5 CAMELS ratings. Additionally, if any institution had TARP capital, it was required to refinance it with SBLF funds and had to be current on the TARP dividend payments and could not have previously missed more than one dividend payment.

At the end of May 2011, about two months after the SBLF applications were submitted, the Treasury expanded the eligibility requirements to include no restrictions on the bank's (or holding company's) ability to pay dividends. The SBLF defined "no restrictions" to include any agreements between the bank/holding company and its regulator that require prior approval before paying dividends. The SBLF included all regulatory agreements that require prior approval on dividend payment language, regardless of the severity of the agreement (i.e. cease and desist, memorandum of understanding, or a simple board resolution), the severity of the individual situation, or the recent pattern of regulatory approval to pay TARP dividends. The Treasury Department gave the banks until August 1, 2011 to remove or obtain a waiver from the purported restrictions to be eligible for SBLF capital. Treasury's position is somewhat arbitrary, as they understand that if the regulators waive the requirement for SBLF capital dividends that it can be replaced at a future date. Treasury appears to only be concerned with

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the "pre-approval" language being removed and/or waived by August 1, so that the SBLF application can be approved.

Additionally, I realize that TARP and SBLF capital are from separate programs, but the risk of non-payment to the Treasury is not removed for those banks that currently have TARP capital. It appears illogical that the restriction would be placed for those banks that have TARP capital to refinance (a requirement of the SBLF program). In these cases, the dollars would only be traded (SBLF / TARP), the risk of non-payment remains unchanged, but the main street bank is incentivized to increase small business lending in exchange for possible lower capital costs or dividend rates.

Recently, the Federal Reserve ("FRB") informed a member bank verbally that waivers will not be granted to any banks with CAMELS ratings of 3 or higher (formal denial are expected to be issued in the next week). This would effectively eliminate most CAMELS 3 rated banks under the jurisdiction of the Federal Reserve (and possibly the FDIC) from the SBLF program which in some regions will eliminate more than one-half of the current applications.

The FRB has taken the position that it will not deviate from its supervisory policies regardless of the inherent benefit to the subject institution or potentially, the local economies. Specifically, the FRB general supervisory policies require some type of agreement, like a board resolution or an MOU, to allow formal oversight of the capital related practices (including but not limited to dividends on capital stock instruments) of the banks and/or holding companies. A granting of a waiver to allow approval of the SBLF funds would allow some main street banks to access capital at a cost currently not available while potentially benefiting the local economies. The FRB is aware that it has the statutory authority to replace the dividend restriction at a future date (technically, the pre-approval requirements can be put back in place a month later) and that it only has to grant the waiver for dividends on SBLF capital, yet its position will not change before August 1 deadline.

The architects of the SBLF program understand that main street banks play a critical role in creating jobs and stimulating the local economies by lending to small businesses. Many of the CAMELS 3 rated "main street banks" have survived an unprecedented economic downturn, remain viable, and should be applauded given their limited financial and human resources. Comparatively, the larger banks generally received relatively unfettered access to abundant government capital assistance programs with no noticeable use of these funds to make loans to small businesses, especially in the most economically distressed areas. This is especially evident in minority communities served by minority banks where the larger banks appear to be de-facto red lining the markets with little or no repercussions to date.

In closing, the August 1st deadline is fast approaching with no apparent urgency by the governmental organizations to resolve this highly bureaucratic issue. Both agencies of government have the ability to remove this hurdle and provide access to low cost capital to main street banks that will be used to stimulate the local economies. Unless the Treasury Department and the federal regulators are committed to getting the SBLF funds where they are needed most, a great opportunity to serve the public good will have been squandered.

Sincerely,



Michael A. Grant, j.D.
President
National Bankers Association

XC: Martin Gruenberg, Acting Chairman, FDIC
Gene Sperling, National Economic Council, The White House
The Honorable Tim Johnson, Chairman, Senate Banking Committee
The Honorable Spencer Bacchus, Chairman, House Financial Services Committee
The Honorable Bill Posey, U.S. House of Representatives
The Honorable Maxine Waters, U.S. House of Representatives
B. Doyle Mitchell, Jr., Chairman, National Bankers Association Board